

Government
Exhibit

3500 - DS - 2
13-CR-607(JFB)

ORIGINAL

1 UNITED STATES GRAND JURY
2 SOUTHERN DISTRICT OF NEW YORK

4 - - - - - x
5 UNITED STATES OF AMERICA

6 -A-
7 PHILLIP KENNER

August 2009
: Special

9
10 25-26. UNITED STATES COURTHOUSE
11 group - Pages 19,
12 Hawaii investigation
13 to Jowdy from
14 knowledge of loans
15 Sydor confirms

March 29, 2011
11:46 a.m.

14

15 APPEARANCES:

16 ARLO DEVLIN-BROWN, ESQ.

17 Assistant United States Attorney

18

19

20 Rivka Teich, R.P.R., C.S.R.
21 Acting Grand Jury Reporter

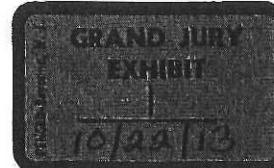
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Sydor and Stevenson
selected by Pecka to
would have been
any FALSE preparations
about the Kenner (G.) --
was REALLY concerned
 testimony -- so if Pecka
second person to give
Steve was the

D. Sydor 03/29/11

2

(Colloquy Precedes.)

(Witness Enters Room.)

(Time Noted: 11:46 a.m.)

5 DARRYL SYDOR, called as a witness, having been

6 first duly sworn by the Foreperson of the
7 Grand Jury, was examined and testified as
8 follows:

9 BY MR. DEVLIN-BROWN:

10 Q My name is Arlo Devlin-Brown. I'm an Assistant
11 United States Attorney. You've been called today to
12 this Grand Jury pursuant to a subpoena, correct?

13 A Yes.

14 Q This Grand Jury is investigating various
15 offenses of securities fraud, bank fraud, wire fraud,
16 things of that nature. You've been called as a witness
17 in that investigation, meaning you're not a subject of
18 the Grand Jury's inquiry, you're not a target of this
19 inquiry, but you're called because you have potentially
20 some information.

21 Would you state your name and spell it for the
22 for the record?

23 A Darryl Sydor, D-A-R-R-Y-L, M., S-Y-D-O-R.

24 Q I'm going to advise you of certain rights that
25 you and every witness has, just to make sure you
26 understand them. Okay?

1 D. Sydor 03/29/11 19

2 Q Did you take out a loan to put in more money?

3 A I believe \$100,000 line of credit.

4 Q \$100,000 line of credit?

5 A I believe so.

6 Q Where did you get the line of credit?

7 A Actually I think it was Northern Trust

8 Q Why did you borrow money?

9 A Just through talking with Phil Kenner to
10 purchase some more, I believe, also help out the
11 transaction in Cabo to start building there.

12 Q You think it was for about \$100,000?

13 A I think so.

14 Q Let me show you a few more documents, Grand
15 Jury Exhibit 111, which is on the top it says "Northern
16 Trust Bank investment management account agreement." Is
17 that handwriting yours on the top, "Owner Darryl Sydor"?

18 A No, not my printing, no.

19 Q What about this page of the document, numbered
20 657 on the bottom, is that your signature here?

21 A Yes.

22 Q Do you recall signing forms that gave Phil
23 Kenner power of attorney to trade in your account as he
24 saw fit?

25 A Not as he saw fit.

26 Q What conditions were put on the power of

1 D. Sydor 03/29/11

25

2 in March 2009 to pay off that line of credit?

3 A No, I don't.

4 Q Because you're not aware that you had a line of
5 credit in that amount?

6 A I guess so, yes.

7 Q How often do you communicate with Mr. Kenner
8 about your investments?

9 A I don't really communicate with him about, I
10 mean, about the, right now just been communicating about
11 the land deals.

12 Q Back to the land deals, you put in, as far as
13 you remember, about 500,000 to Little Isle IV?

14 A Uh-huh.

15 Q You thought it was about \$100,000 line of
16 credit?

17 A Yes.

18 Q Was that also for Little Isle IV as far as you
19 know?

20 A Yes, but then we put it towards Cabo for a
21 short-term loan for Mr. Jowdy until Lehman Brothers came
22 up with the money that was supposed to be paid back.

23 Q Did you know in advance that it was going to be
24 used, this Little Isle IV money, to be used to salvage
25 the Cabo investment?

26 (A Yes.) It was to help with the short-term loan.

1 D. Sydor 03/29/11 Hawaii Capital account and no longer his personally.
2 funds were committed to his
3 paid back, but that's --
4 Q Paid back to you or back to Little Isle IV?
5 A Paid back to Little Isle IV.
6 Q So --
7 A Back to Hawaii, not to me personally.
8 Q But that didn't happen?
9 A That didn't happen. And Lehman came up with
10 \$129 million loan. It was supposed to be back at
11 closing.

12 Q Did there ever come a point in time that you
13 started having concerns about your investments that
14 Mr. Kenner was managing?

15 A No. Just now that I'm retired I was concerned,
16 when you're playing the game of hockey you're making
17 good money you don't -- like I said, a little gullible.

18 Q Was there a time when someone in his office
19 told you you should be careful?

20 A Yes, I know who you're talking about, Christy
21 Myrick.

22 Q What happened? Just tell the Grand Jury what
23 happened?

24 A She actually approached me, I think via phone
25 call. She was a secretary at the time for Phil. And
26 she actually said, "You make sure you check into your

no money frauds

Kenner's FIRED assistant Who alleges
Sydor confirms conversation with

27

2 investments, all the investments". But I asked why, she
3 said, "Make sure you have all the documentations, all
4 that," which I did get all the documentation. So I did
5 inquire, I said, "What is going on? Why are you saying
6 that." She goes, "Well, I'm going to be leaving. I'm
7 in an argument with Phil Kenner." She actually started
8 sleeping around with some hockey players that Phil was
9 the business manager with, so that's why she got fired.

10 Q How do you know that she was sleeping around
11 with the hockey players?

12 A I played with one of them so I saw it.

13 Q He told you?

14 A Yes. But I did ask her, I said, "Is there any
15 concern about my money?" She said, "It's nothing about
16 that. I'm not saying Phil is stealing your money or
17 doing anything, just make sure you get all your
18 documentation or paper work for your investment," which
19 is I did.

20 Q What did you understand that to mean? I mean,
21 on the one hand you better get your documentation and
22 paper work; on the other hand, she says, supposedly,
23 he's not stealing your money?

24 A She was upset with him. She could have said
25 make sure, watch, because he is stealing it. She told
26 me he wasn't. You don't have to be concerned with that,